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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/550,983	04/17/2000	Joseph Chadwick Kinney		1828

7590 02/06/2003

John Wiley Horton  
Booth & Horton PA  
Post Office Drawer 840  
Tallahassee, FL 32302

EXAMINER

GOODWIN, JEANNE M

ART UNIT	PAPER NUMBER
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2841

DATE MAILED: 02/06/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/550,983

Applicant(s)

KINNEY, JOSEPH CHADWICK

Examiner

Jeanne-Marguerite Goodwin

Art Unit

2841

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 18 July 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-4 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☒ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_ 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Response to Amendment***

1. Applicant's request for reconsideration of the finality of the rejection of the last Office action is persuasive and, therefore, the finality of that action is withdrawn.

### ***Allowable Subject Matter***

2. The indicated allowability of claims 1-4 is withdrawn in view of the newly discovered reference(s) to US Patent 5,332,135 to Fletcher and US Patent 5,636,775 to Kartsotis et al. Rejections based on the newly cited reference(s) follow.

### ***Claim Objections***

3. Claim 2 is objected to because of the following informalities: In claim 2, line 2: "said guard band" lacks antecedent basis. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

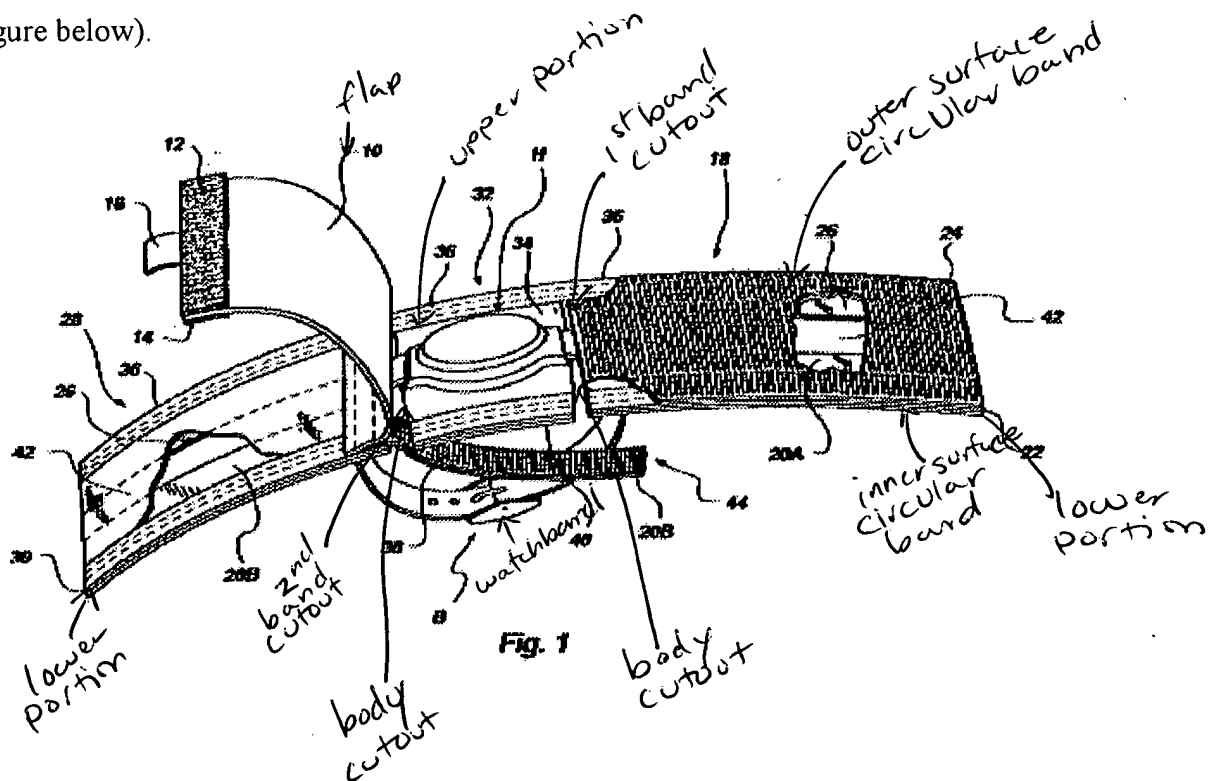
A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1 and 2 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent 5,332,135 to Fletcher [hereinafter Fletcher].

Fletcher discloses in Figs. 1 and 2 an apparatus for protecting watches comprising a circular band/belt portions 18/28 forming an inner surface and an outer surface with the inner surface being proximate the user's wrist and the outer surface being distal to the user's wrist, having an upper portion and a lower portion, wherein the lower portion is transected by an adjustment break 22/30 which allows the diameter of the circular band to be adjusted to accommodate variation in the diameter of the wrist of the user; wherein the upper portion opens

into a body cutout passing completely through, having a first end and a second end, with the body cutout being oriented transverse to the central axis of said wrist of said user, and being large enough to allow the passage of the watch body so that the watch body rests on the outer surface; wherein the upper portion opens into a first cutout passing completely through, being positioned near the first end of the body cutout, and being oriented parallel to the central axis of the wrist of the user, and being large enough to allow the passage of the watch band; wherein the upper portion opens into a second band cutout passing completely through, being positioned near the second end of the body cutout, and being oriented parallel to the central axis of the wrist of the user, and being large enough to allow the passage of the watch band, so that the watchband encircles the user's wrist inside of the inner surface of the circular band, yet remains attached to the watch body resting on the outer surface of the circular band; and wherein the upper portion further comprises a cover flap 10, attached to the circular band, and positioned to close over the upper portion so that the watch body is sandwiched between the outer surface and the cover flap (see figure below).



*Claim Rejections - 35 USC § 103*

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 3 and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fletcher in view of US Patent 5,636,775 to Kartsotis et al. [hereinafter Kartsotis].

Fletcher discloses a device as stated above with regards to claims 1 and 2. Fletcher discloses all the subject matter claimed by applicant with the exception of the limitation stated in claim 3, i.e., a storage pocket; and the limitation stated in claim 4, i.e., a pocket flap.

With respect to the limitations stated in claims 3 and 4: Kartsotis discloses a pouch and flap assembly 22/28 for use in connection with wristwatch straps in order to provide a convenient storage receptacle for small objects. Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to add the pouch and flap assembly, as taught by Kartsotis, to the circular band, as taught by Fletcher, in order to provide a convenient storage receptacle for small objects, as already suggested by Kartsotis.

*Conclusion*

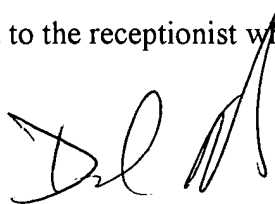
8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The prior art cited in the PTO-892 disclose related devices. US Patent 4, 155,219 to Anderson and US Patent 4,916,679 to Agnello disclose wrist watch protector; US Patent

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5,762,241 to Cross and US Patent 5,769,290 to Pestana disclose an adjustable watchband; and US Patent 6,199,730 to Chisolm and US Patent 4,103,808 to Hallman et al. disclose wristband having a protective cover for a watch.

Any inquiry concerning this communication or earlier communication from the examiner should be directed to Examiner Jeanne-Marguerite Goodwin whose telephone number is (703) 305-0264. The examiner can normally be reached on Monday-Friday (9am-6pm), alternate Fridays off. The fax phone number for the organization where this application or proceeding is assigned is (703) 308-7724. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.

JMG  
Feb. 3, 2003



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